

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Town of Amherst

Date application filed with the Town Clerk: August 8, 2005

Nature of request: To renew Special Permit FY2003-00034 for a transfer station and recycling center under Sections 3.344 and 10.33 of the Zoning Bylaw, and to extend the permit for five (5) years

Address: 740 Belchertown Road (Map 18D, Parcel 23, R-LD Zoning District)

Legal notice: Published on September 7th & 14th, 2005 in the Daily Hampshire Gazette and sent to abutters on September 6, 2005.

Board members: Zina Tillona, Tom Simpson and Ted Rising

Submissions: The petitioner submitted a packet with the following:

- A site plan of the Amherst Transfer Station and Recycling Center, located at the former landfill site, drawn by ELM of the Amherst Department of Public Works (DPW) Engineering Division, dated August 2, 2005
- A packet of information from Guilford Mooring, Superintendent of Public Works, dated August 8, 2005, describing the services offered at the Amherst Transfer Station and Recycling Center, the quantity of items received and transferred for the month of July, 2005 as an example, proposed modifications to the site, and a copy of a "Variance" application for residents who bring their own refuse/recycling to the Transfer Station.

The zoning assistant to the Board of Appeals submitted a memo dated September 16, 2005 outlining some of the previous Special Permits for the site, and additional details of the Transfer Station and Recycling Center operations.

Site Visit: September 14, 2005

The Board met with Superintendent Guilford Mooring at the Transfer Station and Recycling Center (referred to hereafter as "Transfer Station".) They observed the following:

- The three capped cells of the former landfill
- The 2-3 acres of the site used for the Transfer Station – the paper and bottles/cans recycling bins, the roll-offs, the "Take-it-or-Leave-it" shed, the book shed, paint shed, the mercury products shed, the office, the trash containers, etc.
- The storage areas for DPW equipment and materials on the easterly side of the site
- The screening on the westerly side of the site, and the proximity of houses from Logtown Road.
- The neat appearance of the site overall, the absence of seagulls, litter or smells.

Public Hearing: September 22, 2005

Board member Mr. Rising revealed that he had been a member of the Post Landfill Alternative Committee (PLAC) of 2002 which had recommended the current location for the Transfer Station.

Guildford Mooring, Superintendent of Public Works, presented the renewal request at the hearing. He stated that the Town would like to renew the Special Permit for the Transfer Station for duration of five years.

Currently the Transfer Station serves 46 businesses, 82 contractors, and 2067 residents who have bought access permits to the site and can bring their waste/recycling. The packet that Mr. Mooring submitted to the Board lists 22 operations and services provided at the facility – recycling, refuse, construction & demolition material, appliances, computers, oil drop-off, bookshed, paint, etc.

Mr. Mooring chose five years for the duration of the permit because some of the abutters to the site have been advocating for the Transfer Station to be re-located to the former landfill site across the street. The “old landfill” across the street has been closed for over 25 years. It was an unlined facility that was not capped in the same manner as the current sanitary landfill, and has had leachate and methane issues through the years.

Mr. Mooring stated that the five year interval is needed because it takes the State Department of Environmental Protection (DEP) and local committees at least that long to finalize plans. Developing a site usually has the following timetable:

1. Two years of testing and environmental assessment; the Amherst Public Works recently started with tests of the old landfill interior. Results will be sent to the DEP, which will most likely ask for more tests, then more tests, the petitioner stated.
2. One year of design work for the new transfer station.
3. One year for the DEP to consider the design, ask for revisions, etc.
4. One year for the local permitting process to the Board of Appeals and Design Review Board, and finally, the new facility construction.

Board Chair Ms. Tillona noted that the current two-year Special Permit for the Transfer Station expires at the end of October, 2005, so the Town is applying in a timely fashion.

Ms. Tillona commented on the much improved appearance of the site from that of two years ago when the landfill was still open and the Special Permit was issued to change the use to a transfer station.

A phone message to the zoning office from David Mazor, 24 Mountain View Circle was read into the record. Mr. Mazor spoke in favor of the transfer station and the recycling programs there. He stated that the bookshed is actively used by the “Reader to Reader” book program which sends tens of thousands of books to some of the poorest areas all over the country. He has found the transfer station ideal for obtaining discarded books, which his program can recycle and re-use. Mr. Mazor has found the transfer station convenient and well-run. The current location seems ideal he said, and he wished to speak in support of the transfer station at that location.

Mr. Rising asked if the bookshed can take all kind of books. Mr. Mooring replied that the transfer station accepts literature, children’s books, encyclopedias, and reference books. Books that remain on the shelves for a period of time are taken to the UMass recycling center, where they are shipped overseas with the “Books across the Waters” program.

Three people spoke during the public comment period.

Miriam Dayton, 850 Belchertown Road, stated that she doesn't personally see or hear the transfer station in operation because she lives in the woods abutting the facility to the east. She does use the transfer station for her refuse and recycling, and uses the bookshed often. It's handy to use the transfer station, she said.

Ms. Dayton supports the idea that the facility should be moved across the street to the old landfill. It will not be inconvenient or offensive for the neighbors there, she said. It was her understanding that the current landfill would be closed by now. No one expected that a transfer station would be situated there. It is too close to Logtown Road. The recycling structure itself is poor, she said. It should be replaced and moved. The noise and smell are offensive to others, she said.

Elsie Fetterman, 148 Logtown Road, stated that she is part of the group asking that the transfer station be moved to the old landfill. She read from the PLAC 2002 report concerning site suitability and assessment. Only one criterion was not listed as suitable for the old landfill to become a transfer station, and that was "site assignment." She said that the Town should determine what the old landfill can be used for – soccer fields, some other recreational use, and/or a transfer station. Ms. Fetterman said the Town should know whether the DEP finds the old landfill acceptable for a possible site for a transfer station in two years, not five years as the applicant outlined.

Ms. Fetterman stated that she does not find the conditions of Section 10.38 of the Zoning Bylaw are met with the current location of the transfer station. Specifically, Section 10.383 states that the proposal would not be a substantial inconvenience to abutters, and Section 10.393, that the proposal provides adequate landscaping and screening. Ms. Fetterman finds the noise from the transfer station unacceptable in the early morning, and she does not see any work done on adequate landscaping to alleviate the noise.

Pat Church, 75 South Prospect Street and chair of the Solid Waste Committee (SWC), testified that the proposal was discussed at the SWC meeting, and the committee voted to "strongly support" the transfer station proposal. The SWC is charged with helping to solve recycling and solid waste issues for the Town. The current transfer station is a valuable option for folks throughout Town, and is an affordable option for all economic levels of citizens, she stated. For those who participate in the "Variance" program – i.e. residents taking their own refuse and recycling to the transfer station instead of using a weekly pickup service – there is a savings of more than half of the cost of a private hauler. Haulers now charge \$360/year for one barrel of refuse per week. The Variance program costs the entry fee of \$35 plus \$3 per Town-authorized refuse bag.

Ms. Church stated that the fees generated from the transfer station have subsidized the recycling programs, and that the transfer station has facilitated recycling throughout the Town. The SWC sees the transfer station as the key to success for recycling in Amherst.

Ms. Tillona asked the applicant what the noise is at the transfer station that bothers Ms. Fetterman and perhaps other abutters at 7:30 AM. Mr. Mooring said that the staff begins work at 7 AM at the Public Works building on West Street, and a road crew may show up at the transfer station for gravel or curbing around 7:30 AM. The crew that operates the transfer station has to get ready for the facility to open at 8 AM, so they may be moving equipment such as recycling or refuse containers. The roll-off truck arrives around 7:30 AM to transport refuse or recycling. When the facility opens, other trucks may arrive.

The Board reviewed the site plans to determine the closeness of the access road and the transfer station itself to the abutters on Logtown Road. There is a 50' buffer and a screen of trees on the westerly border of the transfer station next to Logtown Road. In addition, the access road is over 300 feet away from the nearest residence on Logtown Road. Mr. Mooring said that the only other possible buffer to reduce noise would be to put a berm of earth near the buffer zone on the western side of the site. The DPW can do that, he said.

The Board also reviewed the gas collection system and the monitoring wells. Mr. Mooring stated that the monitoring will be continued for another 20 years, and will cost \$660,000. Money has been set aside from former landfill receipts for this purpose. He stated that flares have been installed to burn off methane gas escaping from the closed cells of the landfill. Cell 3 has an active gas collection system; the others are passive.

Mr. Rising asked about the complaint of odor. Mr. Mooring said that in March of 2005 a valve of the gas collection system failed. The wrong valve had been installed. The valve was replaced, and the problem should not happen again. Other than that, the facility has been odor-free, he stated.

The Board inquired about the cost of changing the location of the transfer station. Mr. Mooring stated that the estimate to move the facility was \$400,000 five years ago. Fees would most likely have to be raised to fund the change, or perhaps a grant could be obtained. A Special Permit from the Board would be needed, and abutters from any other proposed site would also be notified for input. The current site would still be used for storage of equipment and materials, and for dumping excess snow in the winter even if the transfer station was moved.

The Board asked about the five-year duration of this Special Permit application. Mr. Mooring stated the old landfill could possibly be considered as a transfer station site or a site for other uses, but it did not go through a DEP-required Comprehensive Site Assessment when it became a landfill years ago. The current site did, and is the only site in Amherst designated for use as a transfer station. The old landfill must be sampled at various locations to determine the contents and safety of the site. The sampling was started a few days ago, and will be finished by this winter. The samples will be submitted for review to the DEP. But another round of sampling and testing will be needed after that. Hence a two-year period for environmental assessment prior to the design for any use (60 days minimum), permitting from the DEP (1 year minimum), permitting from the ZBA (2-3 months), and finally building (2-3 months).

The Board was satisfied that the applicant needs a five-year time period in order to complete the DEP Comprehensive Site Assessment for the old landfill and determine its suitability for other possible uses. I

Mr. Rising moved to close the evidentiary part of the hearing. Mr. Simpson seconded the motion, and the vote to close the hearing was unanimous.

Public Meeting – Deliberations:

The Board noted that the balance of neighborhood interests versus that of the entire Town must be considered in this case. The Board recognizes the discomfort of some abutters to have a transfer station next door, but also is aware that 2000+ households, the schools and many businesses actively use and need the Amherst Transfer Station. In addition, residents who live across the street will have the same objections as do the abutters on Logtown Road.

Mr. Rising noted that the Board also must take into account the recommendations of the Solid Waste Committee, since their charge is to focus on solid waste and recycling for the Town.

Ms. Tillona noted that there is a necessity to renew this application, since the current Special Permit to operate a transfer station in Amherst expires on October 30th, 2005. The Town needs to put the refuse and recycling that is not collected by private haulers somewhere – namely at the only state permitted site in Town.

Mr. Simpson raised the possibility of changing the hours of operation to further accommodate the neighbors, but the Board concluded that an 8 AM opening of the facility three times per week constitutes normal operating hours, is beneficial to the Town users, and that DPW staff needs to be there earlier. The Town's Noise Bylaw allows limits on excessive noise only between the hours of 11 p.m. and 7 a.m. Moreover, the Noise Bylaw does not apply to Public Works activities, although the Town DPW does limit its activities to normal business hours except in emergencies.

Public Meeting - Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 -The proposal is suitably located on Town land previously used as the sanitary landfill and recycling center, and is compatible with the 20+ year use of the site as a landfill. The site is very large for a transfer station, and the abutting Logtown Road residences were built after the landfill/recycling center operations had commenced. A transfer station is much less intense than the former activity.

10.382, 10.383 & 10.385 – The proposal does not constitute a nuisance due to air and water pollution, odor, dust or visually offensive structures and reasonably protects adjoining premises because the site is over 56 acres, and the transfer station activity is contained on only 2-3 acres within the site. There is screening already, and the transfer station activity is at least 300 feet away from the nearest abutters to the west on Logtown Road. The three capped landfill cells do not emit offensive odors and are now grassed mounds. Buffer zones, screening and the large cells of the landfill constitute the bulk of the site. The petitioner will be adding an additional dirt berm to help protect the Logtown Road abutters from noise.

10.384 – Adequate and appropriate facilities have been provided for the proper operation of a transfer station, because the site is organized with separate locations for the 22 different operations and services provided at the facility. Hazardous wastes are stored in sheds separate from the sheds for books or paint; refuse and recycling areas are separate, etc. The site is large enough to that extra recycling programs can be added if available in the future.

10.386- The use complies with sign and parking regulations. Signage identifies the location for each of the collection sites. Additional parking has been added since the 2003 Special Permit.

10.387 & 10.388 – The proposal has not changed the pattern of movement within the site, or to access the site. Adequate space exists for off-street loading and unloading of vehicles, materials and equipment related to the operation of the transfer station and recycling activities. Traffic moves through the facility steadily throughout the period that the transfer station is open.

10.389 & 10.390 – The proposal provides adequate methods of disposal of waste and recyclables since this is a DEP-approved facility and is constantly inspected for proper procedures and new recycling options. Testing for drainage, erosion, leachates, methane, etc has been on-going for 20 years, and will continue for 20 years in the future. Temporary storage of chemical and other hazardous materials will continue to be under DEP directive.

10.392, 10.393 & 10.396 – The proposal provides adequate landscaping and provides protection of adjacent properties of lighting because the transfer station activities occur only three days per

week, and are at least 300 feet away from the nearest abutters. A 50-foot buffer zone, fences and trees screen the property, and an additional screen of dirt berm will be added by the petitioner to reduce morning noise. Security lighting on the site is necessary, but its effect on the neighborhood has been reduced with cut-off luminaries, light shields, lowered height of light poles, and screening.

10.397 – The proposal provides adequate open space, since most of the 56+ acres is open.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw, which is to promote the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. A transfer station is necessary for all the citizens, and this facility is as carefully run and up-to-date as is possible for the Town.

Public Meeting - Zoning Board Decision:

Ted Rising moved to APPROVE the Special Permit, with conditions. Tom Simpson seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to GRANT a renewal of Special Permit FY2003-00034 for a transfer station and recycling center under Sections 3.344 and 10.33 of the Zoning Bylaw, and to extend the permit for five (5) years, on the premises at 740 Belchertown Road (Map 18D/Parcel 23, R-LD Zoning District), with conditions.

ZINA TILLONA

TOM SIMPSON

TED RISING

FILED THIS _____ day of _____, 2005 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2005.

NOTICE OF DECISION mailed this _____ day of _____, 2005
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2005,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to the Town of Amherst to renew Special Permit FY2003-00034 for a Transfer Station and Recycling Center under Sections 3.344 and 10.33 of the Zoning Bylaw on the premises at 740 Belchertown Road (Map 18D/Parcel 23, R-LD Zoning District), subject to the following conditions:

1. This Special Permit allows for the use of a Waste Transfer Station and Recycling Center. It supersedes all previous Special Permits for the site.
2. The site shall be used for the following:
 - a. Town of Amherst Municipal Solid Waste Transfer Station
 - b. Recycling Center
 - c. Material storage area for granite curb, sand, gravel, bricks, etc.
 - d. Snow dumping, to be used in accordance with MA Department of Environmental Protection (MDEP) requirements.
3. Fencing along the borders and screening in the buffer zones shall be maintained in perpetuity.
4. The hours of operation for the Transfer Station and Recycling Center open to the public shall be three days a week, from 8 am to 2 pm.
5. The hours of operation for the Dept. Public Works (DPW) staff shall be 7 am to 3 pm, six days a week, except for emergencies
6. The Town shall take all reasonable steps to develop and operate the Transfer Station and Recycling Center in a manner which minimizes negative visual impact.
7. A berm of earth shall be constructed on the westerly side of the site next to Logtown Road, to help decrease noise of the operations of the Transfer Station. Use of any machinery on site shall be limited to the hours of 7:30 am to 3 pm, except in emergencies.
8. Snow dumping outside of the normal DPW hours of operation shall occur at the site only when all other available sites for snow dumping have already been filled to capacity or when the volume of snow accumulating in Town is so large as to require the use of the site in addition to other sites.
9. Water supply monitoring shall be continued for the following private water supplies (wells) on properties adjacent to the landfill site. Reports on water quality, including but not limited to chemical and biological characteristics, shall be submitted to the Amherst Board of Health every three (3) months for a length of time determined by MDEP. All reports shall be kept in a chronological file, open for inspection by the public. An annual summary of such reports shall be prepared by the Board of Health and mailed to the owners of such adjacent properties. In the event that any of the protected water supplies shall become contaminated because of the landfill, the Town shall remedy the situation by some fair and equitable arrangement. The protection of this Condition and all other Conditions in this

decision shall include the property owners, administrators, executors or successors.

The properties whose water supplies are protected by this Condition (provided the owners allow the Town to continue the water testing program) are as follows:

- a. 850 Belchertown Road
- b. 125 Old Belchertown Road
- c. 186, 202, 264, 284, & 300 Harkness Road

The property at 236 Harkness Road is not protected by this Condition because the owners did not allow the Town to test the water supply in 1982 before the landfill commenced operation. Private water supplies which were installed after the granting of Special Permit 76-54 on December 9, 1976 are also not protected by this Condition.

10. Groundwater and surface runoff monitoring and testing shall be conducted according to the requirements of MDEP. The runoff collection pool at the corner of Logtown Road & Belchertown Road, the pond north of Old Belchertown Road, and Harkness Brook shall be tested annually in March-April to determine whether or not leachate or other pollutants are present. If such pollution is found, remedial and preventative measures shall be undertaken as soon as the required approvals can be obtained, and the Town will take all steps necessary to obtain such approvals. Reports on these tests shall be kept by the Town Board of Health in a chronological file open for inspection by the public.
11. Aggressive measures shall be undertaken by the Town to prevent any rodent, animal or pest problem from developing on the site.
12. Liquid waste sludge may be used in conjunction with a MDEP permitted activity as long as the material is stored in closed containers, transported on the site in a closed piping system and not applied directly to any surface of the site.
13. All refuse and paper for recycling must be covered daily. Specifically, refuse brought to the site shall be placed in a closed compactor box or open top roll-off which shall be covered daily and emptied as often as necessary in order to minimize noxious odors.
14. The transfer station shall be kept free from noxious odors. An active methane gas collection system shall be maintained for Cell 3.
15. Any compost pile shall be located as far as possible from adjacent residences in order to minimize noxious odors. The materials placed in the compost pile shall be those approved by MDEP regulations. No manure or significant amounts of fruits and vegetables shall be placed in the compost pile.
16. The metal recycling pile shall not be allowed to accumulate to a height which can be seen from the abutting properties on Logtown Road.
17. The Recycling Center area may be changed only with the approval of the MDEP or to facilitate a MDEP approved recycling or diversion policy or program. Any *di minimus* physical changes to the site shall be approved by the Building Commissioner. Substantial changes to the site must be approved by the Zoning Board of Appeals at a public hearing.
18. This permit will be reviewed at a public meeting of the Board in October, 2010, in order to determine whether the applicant needs to apply for another Special Permit for the continued operations of the Amherst Transfer Station and Recycling Center.

ZINA TILLONA, Chair
Amherst Zoning Board of Appeals

DATE

